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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,598	11/09/2001	Barry Smith Fagg	JJ-122-R &D (000064.00139)	5991

7590

04/16/2002

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EXAMINER

HALPERN, MARK

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 04/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,598

Applicant(s)

FAGG ET AL.

Examiner

Mark Halpern

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Specification

- 1) Cross-Reference section, page 1, should indicate that application 09/452,413 is now patent U.S. 6,360,751.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 2) Claims 1-10, are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Townsend (4,700,726).

Claims 1-2, 5-6, 8-9; Townsend discloses a cigarette rod having a first segment 56 positioned at the end to be lit, a second segment 58 positioned at the end of the rod opposite the end which is to be lit, a third segment 60 positioned adjacent the first segment, and a fourth segment 62 positioned adjacent the second segment; said

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segments being aligned in an abutting, end-to-end relationship. Wrapping material 64 is forming the tube-like cigarette rod (col. 2, lines 26-61, and Figure 2). The first segment can have a density greater than the adjacent third segment, while the second segment can have a density greater than the adjacent fourth segment. The density of the fourth segment is less than the density of the third segment. The longitudinal length of the first segment ranges from about 8 to about 20 percent, and the longitudinal length of the second segment ranges from about 8 to about 20 percent of the total length of the rod (col. 4, lines 18-45). The longitudinal length of the first segment is greater than the longitudinal length of the second segment, or at least it would have been obvious that the longitudinal length of the first segment be greater than the longitudinal length of the second segment in situations where the length percentages of the range are greater for the first segment.

Claims 3-4, 7; the tobacco rod is disclosed to be of length from about 55 mm to about 85 mm (col. 2, lines 26-35). The calculated lengths of first and second sections of Townsend are in range from about 4.4 mm to about 17 mm.

Claim 10; the first end is a lit end, and the second end is a filter end (Figure 2)

Conclusion

3) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 703-308-3837. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

MH

Mark Halpern
Patent Examiner
Art Unit 1731

April 8, 2002


CHRISTOPHER A. FIORILLA
PRIMARY EXAMINER
GROUP 1300